

## HOUSE BILL NO. 783

INTRODUCED BY D. HIMMELBERGER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE AUTOMATIC ADJUSTMENT AND TRACKING OF MONTANA STATE AND LOCAL TAXES AND FEES PAID BY A PUBLIC UTILITY; CLARIFYING THAT RATE SCHEDULES PROVIDE FOR FULL RECOVERY OF TAXES AND FEES; CLARIFYING THE RATE CALCULATION; PROVIDING A MECHANISM TO ADJUST RATES FOR OVERCOLLECTION; AMENDING SECTION 69-3-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 69-3-308, MCA, is amended to read:

**"69-3-308. Disclosure of taxes and fees paid by customers of public utility -- automatic rate adjustment and tracking for taxes and fees.** (1) A public utility may separately disclose in a customer's bill the amount of state and local taxes and fees assessed against the public utility that the customer is paying.

(2) (a) (i) The commission shall allow a public utility to file rate schedules containing provisions for the automatic adjustment and tracking of Montana state and local taxes and fees, except state income tax, paid by the public utility. The resulting rate schedule changes must ~~include~~ provide for:

(A) ~~adjustments for the net change in federal and state income tax liability caused by the deductibility of state and local taxes and fees~~ full recovery of all state and local taxes and fees assessed to the utility in a calendar year;

(B) retroactive tax adjustments; and

(C) adjustments related to the resolution of property taxes paid under protest.

(ii) The rate established to recover state and local taxes and fees levied against an electric public utility or its constituent property must be calculated by dividing the estimated tax assessment for the calendar year by the estimated number of kilowatt hours of electricity to be sold to retail consumers during the calendar year.

(iii) The rate established to recover state and local taxes and fees levied against a natural gas public utility or its constituent property must be calculated by dividing the estimated tax assessment for the calendar year by the estimated number of dekatherms of natural gas to be sold to retail consumers during the calendar year.

(b) If state and local taxes collected in rates pursuant to subsections (2)(a)(ii) and (2)(a)(iii) exceed taxes assessed for the applicable tax year, the utility shall adjust rates for the next calendar year returning any overcollection from the prior year's taxes. If state and local taxes collected in rates pursuant to subsections (2)(a)(ii) and (2)(a)(iii) are less than the taxes assessed for the applicable tax year, the utility shall adjust rates for the next calendar year to collect any undercollection from the prior year's taxes.

(ii)(c) The rate schedules must include provisions for annual rate adjustments, including both tax increases and decreases.

(b)(d) The amended rates must automatically go into effect on January 1 following the date of change in taxes paid on an interim basis following the tax year, subject to any adjustments determined in subsection (2)(e) (2)(e).

(e)(e) The Except as provided in subsection (2)(h), the amended rate schedule must be filed with the commission on or before the effective date of the change in taxes paid December 1 each year, and if the commission determines that the revised rate schedule is in error, the commission may, within 45 15 days of receipt of the revised rate schedule, ask for comment and order the public utility to address any errors or omissions including, if necessary, any refunds due customers.

(e)(f) Failure of the commission to issue an order pursuant to subsection (2)(e) (2)(e) is considered approval on the part of the commission.

(e)(g) A public utility may challenge an order issued by the commission under subsection (2)(e) (2)(e) in accordance with the provisions of 69-3-401 through 69-3-405.

(h) A utility may file for the recovery of calendar year 2004 state and local taxes on or before June 1, 2005, and for succeeding calendar years on or before December 1 with the rates going into effect January 1."

**NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

**NEW SECTION. Section 3. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2004.

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